

HOUSE BILL NO. 642

INTRODUCED BY B. STORY, DEPRATU

BY REQUEST OF THE HOUSE TAXATION STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DISTRIBUTION OF OIL AND NATURAL GAS PRODUCTION TAXES FOR THE PURPOSES OF THE RESOURCE INDEMNITY AND GROUND WATER ASSESSMENT TAX AND FOR OTHER PURPOSES; AMENDING SECTIONS 15-1-501, 15-36-324, AND 82-11-135, MCA; AND PROVIDING EFFECTIVE DATES AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund in accordance with the provisions of subsection (3) all money received from the collection of:

- (a) income taxes, interest, and penalties collected under chapter 30;
- (b) except as provided in 15-31-702, all taxes, interest, and penalties collected under chapter 31;
- (c) oil and natural gas production taxes ~~allocated~~ distributed to the general fund under 15-36-324~~(8)(a) and (10)(a)~~;
- (d) electrical energy producer's license taxes under chapter 51;
- (e) [an amount equal to 25% of] the retail telecommunications excise tax collected under Title 15, chapter 53, part 1;
- (f) liquor license taxes under Title 16;
- (g) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;
- (h) estate taxes under Title 72, chapter 16; and
- (i) fees based on the value of currency on deposit and tangible personal property held for safekeeping by a foreign capital depository as provided in 15-31-803.

(2) The department shall also deposit to the credit of the state general fund all money received from the collection of license taxes and fees and all net revenue and receipts from all other sources under

1 the operation of the Montana Alcoholic Beverage Code.

2 (3) Notwithstanding any other provision of law, the distribution of tax revenue must be made
3 according to the provisions of the law governing allocation of the tax that were in effect for the period in
4 which the tax revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed
5 by the department of administration, pursuant to 17-1-102(2) and (4), in accordance with generally
6 accepted accounting principles.

7 (4) All refunds of taxes must be attributed to the funds in which the taxes are currently being
8 recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and
9 penalties are currently being recorded."

10

11 **Section 2.** Section 15-36-324, MCA, is amended to read:

12 **"15-36-324. Distribution of taxes -- rules.** (1) For each calendar quarter, the department shall
13 determine the amount of tax, late payment interest, and penalty collected under this part. For purposes
14 of distribution of the taxes to county and school taxing units, the department shall determine the amount
15 of oil and natural gas production taxes paid on production in the taxing unit.

16 (2) Except as provided in subsections (3) through (5), oil production taxes must be distributed as
17 follows:

18 (a) The amount equal to 39.3% of the oil production taxes, including late payment interest and
19 penalty, collected under this part must be distributed as provided in subsection (9).

20 (b) The remaining 60.7% of the oil production taxes, plus accumulated interest earned on the
21 amount allocated under this subsection (2)(b), must be deposited in the state special revenue fund in the
22 state treasury and transferred to the county and school taxing units for distribution as provided in
23 subsection (12).

24 (3) The amount equal to 100% of the oil production taxes, including late payment interest and
25 penalty, collected from working interest owners on qualifying production occurring during the first 12
26 months of production must be distributed as provided in subsection (10).

27 (4) (a) The amount equal to 100% of the oil production taxes, including late payment interest and
28 penalty, collected from working interest owners on production from horizontally completed wells occurring
29 during the first 18 months of production must be distributed as provided in subsection (10).

30 (b) The amount equal to 100% of the oil production taxes, including late payment interest and

penalty, collected from working interest owners on the incremental production from horizontally recompleted wells occurring during the first 18 months of production must be distributed as provided in subsection (9).

(5) (a) The amount equal to 13.8% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on the first 10 barrels of stripper oil production wells must be distributed as provided in subsection (10).

(b) The remaining 86.2% of the oil production taxes, plus accumulated interest earned on the amount allocated under this subsection (5)(b), must be deposited in the state special revenue fund in the state treasury and transferred to the county and school taxing units for distribution as provided in subsection (12).

(c) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on stripper well exemption production from ~~pre-1985~~ pre-1999 wells and ~~post-1985~~ post-1999 wells must be distributed as provided in subsection (10).

(6) Except as provided in subsections (7) and (8), natural gas production taxes must be allocated as follows:

(a) The amount equal to 14% of the natural gas production taxes, including late payment interest and penalty, collected under this part must be distributed as provided in subsection (11).

(b) The remaining 86% of the natural gas production taxes, plus accumulated interest earned on the amount allocated under this subsection (6)(b), must be deposited in the state special revenue fund in the state treasury and transferred to the county and school taxing units for distribution as provided in subsection (12).

(7) The amount equal to 100% of the natural gas production taxes, including late payment interest and penalty, collected from working interest owners under this part on production from wells occurring during the first 12 months of production must be distributed as provided in subsection (10).

(8) The amount equal to 100% of natural gas production taxes, including late payment interest and penalty, collected from working interest owners on production from horizontally completed wells occurring during the first 18 months of production must be distributed as provided in subsection (10).

(9) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of oil production taxes specified in subsections (2)(a) and (4)(b), including late payment interest and penalty collected, as follows:

(a) 86.21% to the state general fund;

(b) 5.17% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(c) 8.62% to be distributed as ~~provided in 15-38-106(2)~~ follows:

(i) 50% to the resource indemnity trust fund of the nonexpendable trust fund type;

(ii) 25% to the reclamation and development grants special revenue account established in 90-2-1104; and

(iii) 25% to the orphan share account established in 75-10-743.

(10) The department shall distribute the state portion of oil and natural gas production taxes specified in subsections (3), (4)(a), (5)(a), (5)(c), (7), and (8), including late payment interest and penalty collected, as follows:

(a) 37.5% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(b) 62.5% to be distributed as ~~provided in 15-38-106(2)~~ follows:

(i) 50% to the resource indemnity trust fund of the nonexpendable trust fund type;

(ii) 25% to the reclamation and development grants special revenue account established by 90-2-1104; and

(iii) 25% to the orphan share account established in 75-10-743.

(11) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of natural gas production taxes specified in subsection (6)(a), including late payment interest and penalty collected, as follows:

(a) 76.8% to the state general fund;

(b) 8.7% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(c) 14.5% to be distributed as ~~provided in 15-38-106(2)~~ follows:

(i) 50% to the resource indemnity trust fund of the nonexpendable trust fund type;

(ii) 25% to the reclamation and development grants special revenue account established in 90-2-1104; and

(iii) 25% to the orphan share account established in 75-10-743.

(12) (a) By the dates referred to in subsection (13), the department shall, except as provided in

subsection (12)(b), calculate and distribute oil and natural gas production taxes received under subsections (2)(b), (5)(b), and (6)(b) to each eligible county in proportion to the oil and natural gas production taxes received under subsections (2)(b), (5)(b), and (6)(b) that are attributable to production in that county.

(b) The department shall distribute 5% of the oil and natural gas production taxes received under subsections (2)(b), (5)(b), and (6)(b) from pre-1999 wells to eligible counties in proportion to the underfunding that would have occurred from the tax liability distribution of pre-1985 oil and natural gas production taxes for production in calendar year 1997.

(c) Except as provided in subsection (12)(d), the county treasurer shall distribute the money received under subsection (12)(b) to the taxing units that levied mills in fiscal year 1990 against calendar year 1988 production in the same manner that all other property tax proceeds were distributed during fiscal year 1990 in the taxing unit, except that a distribution may not be made to a municipal taxing unit.

(d) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of oil and natural gas production tax money that would have gone to a taxing unit, as provided in subsection (12)(c), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(i) The county treasurer shall first allocate the oil and natural gas production taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.

(ii) If the allocation in subsection (12)(d)(i) exceeds the total budget for a taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

(e) The board of trustees of an elementary or high school district may reallocate the oil and natural gas production taxes distributed to the district by the county treasurer under the following conditions:

(i) The district shall first allocate the oil and natural gas production taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

(ii) If the allocation under subsection (12)(e)(i) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.

(f) The county treasurer shall distribute oil and natural gas production taxes received under subsection (12)(a) between county and school taxing units in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in

1 the preceding fiscal year.

2 (g) The allocation to the county in subsection (12)(f) must be distributed by the county treasurer
3 in the relative proportions required by the levies for county taxing units and in the same manner as
4 property taxes were distributed in the preceding fiscal year.

5 (h) The money distributed in subsection (12)(f) that is required for the county mill levies for school
6 district retirement obligations and transportation schedules must be deposited to the funds established for
7 these purposes.

8 (i) The oil and natural gas production taxes distributed under subsection (12)(c) that are required
9 for the 6-mill university levy imposed under 20-25-423 and for the county equalization levies imposed
10 under 20-9-331 and 20-9-333, as those sections read on July 1, 1989, must be remitted by the county
11 treasurer to the state treasurer.

12 (j) The oil and natural gas production taxes distributed under subsection (12)(f) that are required
13 for the 6-mill university levy imposed under 20-25-423, for the county equalization levies imposed under
14 20-9-331 and 20-9-333, and for the state equalization aid levy imposed under 20-9-360 must be remitted
15 by the county treasurer to the state treasurer.

16 (k) The amount of oil and natural gas production taxes remaining after the treasurer has remitted
17 the amounts determined in subsections (12)(i) and (12)(j) is for the exclusive use and benefit of the county
18 and school taxing units.

19 (13) The department shall remit the amounts to be distributed in subsection (12) to the county
20 treasurer by the following dates:

21 (a) On or before August 1 of each year, the department shall remit to the county treasurer oil and
22 natural gas production tax payments received for the calendar quarter ending March 31 of the current
23 year.

24 (b) On or before November 1 of each year, the department shall remit to the county treasurer oil
25 and natural gas production tax payments received for the calendar quarter ending June 30 of the current
26 year.

27 (c) On or before February 1 of each year, the department shall remit to the county treasurer oil
28 and natural gas production tax payments received for the calendar quarter ending September 30 of the
29 previous year.

30 (d) On or before May 1 of each year, the department shall remit to the county treasurer oil and

1 natural gas production tax payments received for the calendar quarter ending December 31 of the previous
2 calendar year.

3 (14) The department shall provide to each county by May 31 of each year the amount of gross
4 taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year
5 multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes
6 and for county bonding purposes.

7 (15) (a) In the event that the board of oil and gas conservation revises the privilege and license tax
8 pursuant to 82-11-131, the department shall, by rule, change the formula under this section for
9 distribution of taxes collected under 15-36-304. The revised formula must provide for the distribution of
10 taxes in an amount equal to the rate adopted by the board of oil and gas conservation for the expenses
11 of the board.

12 (b) Before the department adopts a rule pursuant to subsection (15)(a), it shall present the
13 proposed rule to the appropriate administrative rule review committee.

14 (16) The distribution to taxing units under this section is statutorily appropriated as provided in
15 17-7-502."

16

17 **Section 3.** Section 15-36-324, MCA, is amended to read:

18 **"15-36-324. Distribution of taxes -- rules.** (1) For each calendar quarter, the department shall
19 determine the amount of tax, late payment interest, and penalty collected under this part. For purposes
20 of distribution of the taxes to county and school taxing units, the department shall determine the amount
21 of oil and natural gas production taxes paid on production in the taxing unit.

22 (2) Except as provided in subsections (3) through (5), oil production taxes must be distributed as
23 follows:

24 (a) The amount equal to 39.3% of the oil production taxes, including late payment interest and
25 penalty, collected under this part must be distributed as provided in subsection (9).

26 (b) The remaining 60.7% of the oil production taxes, plus accumulated interest earned on the
27 amount allocated under this subsection (2)(b), must be deposited in the state special revenue fund in the
28 state treasury and transferred to the county and school taxing units for distribution as provided in
29 subsection (12).

30 (3) The amount equal to 100% of the oil production taxes, including late payment interest and

penalty, collected from working interest owners on qualifying production occurring during the first 12 months of production must be distributed as provided in subsection (10).

(4) (a) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on production from horizontally completed wells occurring during the first 18 months of production must be distributed as provided in subsection (10).

(b) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on the incremental production from horizontally recompleted wells occurring during the first 18 months of production must be distributed as provided in subsection (9).

(5) (a) The amount equal to 13.8% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on the first 10 barrels of stripper oil production wells must be distributed as provided in subsection (10).

(b) The remaining 86.2% of the oil production taxes, plus accumulated interest earned on the amount allocated under this subsection (5)(b), must be deposited in the state special revenue fund in the state treasury and transferred to the county and school taxing units for distribution as provided in subsection (12).

(c) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on stripper well exemption production from ~~pre-1985~~ pre-1999 wells and ~~post-1985~~ post-1999 wells must be distributed as provided in subsection (10).

(6) Except as provided in subsections (7) and (8), natural gas production taxes must be allocated as follows:

(a) The amount equal to 14% of the natural gas production taxes, including late payment interest and penalty, collected under this part must be distributed as provided in subsection (11).

(b) The remaining 86% of the natural gas production taxes, plus accumulated interest earned on the amount allocated under this subsection (6)(b), must be deposited in the state special revenue fund in the state treasury and transferred to the county and school taxing units for distribution as provided in subsection (12).

(7) The amount equal to 100% of the natural gas production taxes, including late payment interest and penalty, collected from working interest owners under this part on production from wells occurring during the first 12 months of production must be distributed as provided in subsection (10).

(8) The amount equal to 100% of natural gas production taxes, including late payment interest and penalty, collected from working interest owners on production from horizontally completed wells occurring during the first 18 months of production must be distributed as provided in subsection (10).

(9) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of oil production taxes specified in subsections (2)(a) and (4)(b), including late payment interest and penalty collected, as follows:

(a) 86.21% to the state general fund;

(b) 5.17% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(c) 8.62% to be distributed as ~~provided in 15-38-106(2)~~ follows:

(i) 50% to the reclamation and development grants special revenue account established in 90-2-1104; and

(ii) 50% to the orphan share account established in 75-10-743.

(10) The department shall distribute the state portion of oil and natural gas production taxes specified in subsections (3), (4)(a), (5)(a), (5)(c), (7), and (8), including late payment interest and penalty collected, as follows:

(a) 37.5% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(b) 62.5% to be distributed as ~~provided in 15-38-106(2)~~ follows:

(i) 50% to the reclamation and development grants special revenue account established in 90-2-1104; and

(ii) 50% to the orphan share account established in 75-10-743.

(11) The department shall, in accordance with the provisions of 15-1-501, distribute the state portion of natural gas production taxes specified in subsection (6)(a), including late payment interest and penalty collected, as follows:

(a) 76.8% to the state general fund;

(b) 8.7% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(c) 14.5% to be distributed as ~~provided in 15-38-106(2)~~ follows:

(i) 50% to the reclamation and development grants special revenue account established in

1 90-2-1104; and

2 (ii) 50% to the orphan share account established in 75-10-743.

3 (12) (a) By the dates referred to in subsection (13), the department shall, except as provided in
4 subsection (12)(b), calculate and distribute oil and natural gas production taxes received under subsections
5 (2)(b), (5)(b), and (6)(b) to each eligible county in proportion to the oil and natural gas production taxes
6 received under subsections (2)(b), (5)(b), and (6)(b) that are attributable to production in that county.

7 (b) The department shall distribute 5% of the oil and natural gas production taxes received under
8 subsections (2)(b), (5)(b), and (6)(b) from pre-1999 wells to eligible counties in proportion to the
9 underfunding that would have occurred from the tax liability distribution of pre-1985 oil and natural gas
10 production taxes for production in calendar year 1997.

11 (c) Except as provided in subsection (12)(d), the county treasurer shall distribute the money
12 received under subsection (12)(b) to the taxing units that levied mills in fiscal year 1990 against calendar
13 year 1988 production in the same manner that all other property tax proceeds were distributed during
14 fiscal year 1990 in the taxing unit, except that a distribution may not be made to a municipal taxing unit.

15 (d) The board of county commissioners of a county may direct the county treasurer to reallocate
16 the distribution of oil and natural gas production tax money that would have gone to a taxing unit, as
17 provided in subsection (12)(c), to another taxing unit or taxing units, other than an elementary school or
18 high school, within the county under the following conditions:

19 (i) The county treasurer shall first allocate the oil and natural gas production taxes to the taxing
20 units within the county in the same proportion that all other property tax proceeds were distributed in the
21 county in fiscal year 1990.

22 (ii) If the allocation in subsection (12)(d)(i) exceeds the total budget for a taxing unit, the
23 commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

24 (e) The board of trustees of an elementary or high school district may reallocate the oil and natural
25 gas production taxes distributed to the district by the county treasurer under the following conditions:

26 (i) The district shall first allocate the oil and natural gas production taxes to the budgeted funds
27 of the district in the same proportion that all other property tax proceeds were distributed in the district
28 in fiscal year 1990.

29 (ii) If the allocation under subsection (12)(e)(i) exceeds the total budget for a fund, the trustees
30 may allocate the excess to any budgeted fund of the school district.

(f) The county treasurer shall distribute oil and natural gas production taxes received under subsection (12)(a) between county and school taxing units in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the preceding fiscal year.

(g) The allocation to the county in subsection (12)(f) must be distributed by the county treasurer in the relative proportions required by the levies for county taxing units and in the same manner as property taxes were distributed in the preceding fiscal year.

(h) The money distributed in subsection (12)(f) that is required for the county mill levies for school district retirement obligations and transportation schedules must be deposited to the funds established for these purposes.

(i) The oil and natural gas production taxes distributed under subsection (12)(c) that are required for the 6-mill university levy imposed under 20-25-423 and for the county equalization levies imposed under 20-9-331 and 20-9-333, as those sections read on July 1, 1989, must be remitted by the county treasurer to the state treasurer.

(j) The oil and natural gas production taxes distributed under subsection (12)(f) that are required for the 6-mill university levy imposed under 20-25-423, for the county equalization levies imposed under 20-9-331 and 20-9-333, and for the state equalization aid levy imposed under 20-9-360 must be remitted by the county treasurer to the state treasurer.

(k) The amount of oil and natural gas production taxes remaining after the treasurer has remitted the amounts determined in subsections (12)(i) and (12)(j) is for the exclusive use and benefit of the county and school taxing units.

(13) The department shall remit the amounts to be distributed in subsection (12) to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil

1 and natural gas production tax payments received for the calendar quarter ending September 30 of the
2 previous year.

3 (d) On or before May 1 of each year, the department shall remit to the county treasurer oil and
4 natural gas production tax payments received for the calendar quarter ending December 31 of the previous
5 calendar year.

6 (14) The department shall provide to each county by May 31 of each year the amount of gross
7 taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year
8 multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes
9 and for county bonding purposes.

10 (15) (a) In the event that the board of oil and gas conservation revises the privilege and license tax
11 pursuant to 82-11-131, the department shall, by rule, change the formula under this section for
12 distribution of taxes collected under 15-36-304. The revised formula must provide for the distribution of
13 taxes in an amount equal to the rate adopted by the board of oil and gas conservation for the expenses
14 of the board.

15 (b) Before the department adopts a rule pursuant to subsection (15)(a), it shall present the
16 proposed rule to the appropriate administrative rule review committee.

17 (16) The distribution to taxing units under this section is statutorily appropriated as provided in
18 17-7-502."

19

20 **Section 4.** Section 82-11-135, MCA, is amended to read:

21 **"82-11-135. Money earmarked for board expenses.** The state treasurer shall deposit all money
22 ~~collected distributed to the board~~ under 15-36-324~~(8)(b), (9), and (10)(b)~~ and collected under this chapter
23 in the state special revenue fund. The money must be used for the purpose of paying all expenses of the
24 board and for no other purpose. The board shall use the money subject to biennial appropriations by the
25 legislature. Income and interest from investment of the board's ~~moneys~~ money in the state special revenue
26 fund must be credited to the board."

27

28 NEW SECTION. **Section 5. Effective dates -- contingency.** (1) Except as provided in subsection
29 (2), [this act] is effective on passage and approval.

30 (2) [Section 3] is effective July 1 of the first year following the date that the governor by executive

1 order certifies to the secretary of state that the resource indemnity trust fund balance has reached \$100
2 million. The secretary of state shall notify the department of revenue, the department of administration,
3 the code commissioner, and the legislative fiscal division of this certification.

4

5 NEW SECTION. **Section 6. Retroactive applicability.** [This act] applies retroactively, within the
6 meaning of 1-2-109, to distributions made after June 30, 2000.

7 - END -